

IN RE: Freddie Robertson )  
Dist. 21, Map104, Control Map 104, Parcel 79 ) Wilson County  
Residential Property Greenbelt )  
Tax Year 2006 )

The subject property consists of a family farm located at 4680 S.E. Tater Peeler Road, in Lebanon, Tennessee. The issue of this appeal is based upon the rollback taxes for eight (8) months in 2004 and all of 2005 that the Taxpayer has received. Mr. Robertson and his family purchased the subject property on May 11, 2004, from Todd Shelton. It is uncontested that prior to the acquisition of the property by Mr. Robertson and his family the subject enjoyed a Greenbelt classification. Mr. Shelton did not live on the property and did not tell the tenants that he had sold the property so that when the current owners arrived to receive possession of the property they met with some resistance. After a protracted legal battle the Robertson's moved onto the subject. However the unchallenged testimony is that the former tenants came back onto the property several times and removed items from the property and the mailbox. Mr. Robertson testified that he never knew there was an issue with the Greenbelt status of his property. Ms. Hunt testified that it is the policy of the Wilson County Assessor's Office to notify new property owners when their property is about to lose Greenbelt status because of the change of ownership. However there is no "paper trail" to determine if that had occurred in this case and as the Taxpayer argues that



even if the County had sent the Notice with the problems they were having with the former tenants there is a high probability that they would not have received it.<sup>1</sup>

The Agricultural, Forest and Open Space Land Act of 1976, also known as the Greenbelt Law is codified in Tennessee Code Annotated §§ 67-5-1001, et. seq. It states in pertinent part:

(1) The owners of existing open space should have the opportunity for themselves, their heirs, and **assigns** to preserve such land in its existing open condition if it is their desire to do so, and if any or all of the benefits enumerated in § 67-5-1002 would accrue to the public thereby, and that the taxing or zoning powers of governmental entities in Tennessee should not be used to force unwise, unplanned or premature development of such land:

It is certainly contemplated that subsequent purchasers can receive the benefit of the Greenbelt exemption of property. Mr. Robertson argues that when he purchased the subject it was under the Greenbelt exemption and it was his intent to keep it under the exemption. It was only through the actions of other third party individuals that he did not file the application in a timely fashion.<sup>2</sup> The statute indicates that the new owner of property acquired under Greenbelt must file an application at the time of the land transfer if they wish to continue the classification. However, application must be made by March 1<sup>st</sup> in the year following the transfer of ownership. As previously stated the County Assessor also notifies the Taxpayer when the status is in jeopardy<sup>3</sup>. The use of the property has not changed, there is still agricultural and livestock on the land.

Since the taxpayers are appealing from the determination of the Wilson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

Based on the uncontrived statements from the taxpayer and his counsel, the administrative judge is of the opinion that the taxpayer has met his burden.

Order

It is, therefore, ORDERED that the following values for the pro-rated tax year 2004 and tax year 2005:

<u>Land Value</u>	<u>Improvement Value</u>	<u>Total Value</u>	<u>Total Value w/ Use</u>	<u>Assessment</u>
\$83,700	\$174,000	\$257,800	\$132,500	\$33,125

<sup>1</sup> An affidavit from the Taxpayer is attached to the appeal which states, "My mail box has been torn down on two occasions. Recently, the father-in-law [former tenant] was seen on the property taking mail from my mail box."

<sup>2</sup> Mr. Robertson wants it noted that his property has been granted Greenbelt status for 2006.

<sup>3</sup> Ms. Hunt stated that Mr. Val Vastella from the County was not available to prove or disprove that the Notice had been sent.



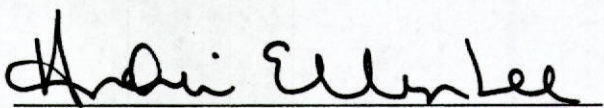
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 16<sup>th</sup> day of November, 2006.

  
ANDREI ELLEN LEE  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Freddie Robertson  
Jimmy Locke, Property Assessor